

Insecticides Act, 1968 (46 of 1985), S. 33 – Whether Director, Godown Incharge and licensed retailer can be held liable in a case of misbranding of a product manufactured by a company, when a specific person had been nominated for quality control?

Company having nominated a specific person responsible for quality control – Merely stating that the Director and the Godown Incharge, are responsible, without elaborating as to how and in what manner they were responsible for the misbranding of the product – Absence of specific allegations of their consent, connivance or neglect – Can not hold them even vicariously liable, in order to fasten them with the liability of misbranding and thereby the consequence of being penalized.

Director – Liability – Petitioner Director of the company and not the “Managing Director”, coupled with the fact that a specific person had been nominated as the person responsible for quality control as also the absence of averment regarding his consent, connivance or neglect, no liable. *M/s Unikel Pesticides Pvt. Ltd. (supra)*, not applicable. *M/s Cheminova India Ltd. (supra)* wherein the proceedings even qua the Managing Director, were quashed, *relied*. Godown Incharge – His duty would essentially be to ensure that articles/goods received from the manufacturing firm are kept in safe condition in the Godown, to maintain a proper inventory of all such articles and goods so received and to further pass on to the same to Distributors and Dealers as per the directions of the manufacturing firm. Unless there is a specific averment in the complaint that he was responsible for quality control, it would not render him liable for prosecution for having committed any offence under Insecticides Act 1968.

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